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GOVERNMENT OF KERALA

Development (Municipal Rules) Department

NOTIFICATION

G.O. Ms. 346/67/DD. *Dated, Trivandrum 26th October* 1967.

S.R.O. No. 321/67.—In exercise of the powers conferred by sub-section (1) of section 90 of the Kerala Municipal Corporations Act, 1961 (30 of 1961) read with section 367 thereof the Government of Kerala hereby make the following rules the same, having been previously published as required by section 368 of the said Act.

RULES

CHAPTER I

1. *Short title and commencement.*—(1) These rules may be called the Kerala Municipal Common Service Rules, 1967.

(2) They shall come into force with effect from 1st November 1967.

2. *Definition.*—In these rules unless the context otherwise requires—

(a) 'appointing authority' means such authority as may be authorised by the Government to make appointments to the posts in the common service.

(b) 'Commissioner' means the Commissioner of a Corporation or of a municipality as the case may be.

(c) 'Committee' means the committee constituted by the Government for recruitment of candidates to the common service.

(d) 'Common service' means the service constituted for the employees of municipalities and corporations as contemplated in sub-section (1) of section 90 of the Kerala Municipal Corporations Act, 1961 (Act 30 of 1961).

(e) 'Disciplinary authority' means the authority competent to impose a penalty on an employee.

(f) 'Director' means the Director appointed under clause (13) of section 3 of the Kerala Municipalities Act, 1960 (Act 14 of 1961).

(g) 'Employee' means an employee of a municipal council or of a Corporation holding any post included in the common service.

(h) 'Enquiry authority' in respect of an employee means the Commissioner or any officer authorised by him in this behalf or an officer nominated by the appointing authority in this behalf.

(i) 'Local authority' means a municipal council or a Corporation as the case may be.

CHAPTER II

3. *Constitution of the Common Service.*—(1) On and with effect from the first day of November 1967, the employees of the municipal councils and Corporations holding the posts specified by the Government, by order in this behalf, shall be constituted into a common service for the State.

(2) On the constitution of the common service under sub-rule (1), the Government shall arrange for the preparation of a combined gradation list of the persons holding the posts included in the common service under all the municipal councils and corporations.

(3) The combined gradation list prepared under sub-rule (2) shall be circulated for information among the employees likely to be affected by the said list and objections, if any, filed by any employee within thirty days of the date of circulation of the list will be considered by the Government before the list is finally approved by them.

(4) For the preparation of the combined gradation list, Government may issue such directions, as may from time to time be found necessary.

4. *Power to effect transfer of an employee from one local authority to another.*—The Government or the Director subject to such restrictions as may be specified by the Government may transfer an employee holding any post included in the common service from one local authority to another.

5. *Payment of salary etc. to the employees of the Common service by the local Authority.*—(1) Every local authority shall be bound to disburse the pay and allowances of an employee serving under it at such rates as may be fixed by Government from time to time.

(2) The leave allowances admissible to an employee under the rules shall be paid by the local authority in which he served last before he entered on leave

(3) The transit pay and travelling allowance at the rates admissible under the rules in force will be paid to an employee transferred from one local authority to another by the local authority in which he joins duty.

CHAPTER III

RECRUITMENT COMMITTEE

6. *Constitution of the Committee.*—The Government shall by notification in the Gazette constitute a committee for the purpose of making recruitments to the posts included in the common service. The committee shall consist of such number of members as the Government may determine from time to time and the members shall be appointed by the Government. The Government shall nominate one of the members as the Chairman of the committee and may nominate if necessary another member as the convener of the committee.

7. *Functioning of the Committee.*—(1) Every question at a meeting of the committee shall be determined by a majority of the votes of the members present and voting on the question and in case of an equal division of votes, the chairman shall have and exercise a second or casting vote.

(ii) The quorum for a meeting of the committee shall be two but the chairman may adjourn any business at a meeting if he is of opinion that it cannot conveniently be transacted owing to the non-attendance of any member.

(iii) If the Chairman is unable to be present at a meeting of the committee, he shall appoint any one of the members of the committee to act on his behalf and the member so appointed shall have all the powers of the chairman at that meeting.

(iv) All decisions of the committee shall be recorded in such manner as the committee may direct. It shall be open to any member who dissents from a decision to record his dissent and the reasons for such dissent.

(v) In respect of any matter for which no provision has been made in these rules, the committee may regulate its proceedings in such manner as it deems fit.

8. *Recruitments.*—The committee shall, whenever it is required to make recruitments to the posts included in the common service, make such recruitments in accordance with the provisions of these rules and such other orders as the Government may from time to time issue.

9. *Committee to decide the procedure to be adopted for making recruitments.*—The committee shall decide on the procedure to be adopted for making recruitments to the various categories of posts in the common service.

Chapter IV

APPOINTMENT, QUALIFICATIONS AND METHOD OF RECRUITMENT

10. *Appointing authority.*—(1) The authority competent to appoint any employee under a local authority shall be notified by the Government.

(2) Notwithstanding anything contained in sub-rule (1), it shall be competent for the Government at any time to assume to themselves the power to make any appointment to a local authority and when such power is assumed, the authority authorised under sub-rule (1) shall, to such extent as may be directed by the Government cease to exercise the power.

11. *Qualifications to various posts.*—No person shall be appointed to any post in the common service unless he possesses the qualifications as the Government may by order published in the Gazette, from time to time determine:

Provided that the Government may , in the absence of duly qualified hand and in exceptional cases, relax any of the qualifications in respect of any candidate to hold a post in the common service:

Provided further that in respect of posts, for which qualifications have not been so determined by the Government, the qualifications prescribed for similar posts in Government service shall be insisted.

12. *Deputation of officers from Government Services.*—Notwithstanding anything contained in this Chapter, the Government may, for special reasons and in the exigencies of service, appoint any person from the service of the Government to any of the posts under a local authority included in the common service, on foreign service conditions.

13. *Probation.*—Every person appointed to a post other than a post in last grade service shall be on probation:—

(i) if appointed by direct recruitment or by recruitment by transfer for a total period of 2 years on duty within a continuous period of 3 years; and

(ii) if appointed by promotion, for a total period of 1 year on duty within a continuous preiod of 2 year.

14. *Applicability of the Kerala State and Subordinate Service Rules in the case of employees.*—(1) The provisions of the Kerala State and Subordinate Service Rules 1958 will apply to this service wherever express provision is not otherwise provided for in these rules.

(2) The principle of reservation of appointments under rules 14 to 17 in Part II of the Kerala State and Subordinate Service Rules, 1958 shall apply to all appointments by direct recruitment to the common service.

Chapter V
PUNISHMENT AND APPEALS

15. *Suspension.*—(1) The appointing authority or the Commissioner if he is not himself the appointing authority may at any time, place an employee under suspension:—

(a) where a disciplinary proceeding against him is contemplated or is pending, or

(b) where a case against him in respect of any criminal offence is under investigation or, trials, or

(c) where final orders are pending on the disciplinary proceedings, if the appropriate authority considers that in the then prevailing circumstances it is necessary in public interest that the employee should be suspended from service.

(ii) Where an employee who is detained in custody whether on a criminal charge or otherwise for a period exceeding 48 hours, shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority and shall remain under suspension until further orders.

(iii) Where a penalty of dismissal, or removal from service imposed on an employee under suspension, is set aside in appeal or on review under these rules and the case is remitted for further enquiry or action or with any other direction, the order of suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, or removal and shall remain in force until further orders.

(iv) Where a penalty of dismissal, or removal from service imposed on an employee is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on a consideration of the circumstances of the case decides to hold a further enquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, an employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal or removal and shall continue to remain under suspension until further orders, unless there is anything contrary in the decision of the court.

(v) An order of suspension made or deemed to have been made under these rules may at any time be revoked by the authority which made or is deemed to have made the order; or by any appellate authority.

(vi) Where an employee is placed under suspension, he shall be paid such subsistance and other allowances admissible under the rules for the time being in force regulating such matters.

16. *Nature of penalties.*—The following penalties may for good and sufficient reasons and as hereinafter provided be imposed on an employee, namely:—

(i) Censure

(ii) Fine

Note.—No fine shall be imposed on any employee not in the last grade service. The infliction of very heavy fines and frequent infliction of small fines shall be avoided.

(iii) Withholding of increments or promotion;

(iv) (a) Recovery from pay of the whole or part of any pecuniary loss caused to the Government or to a local authority by negligence or breach of orders.

(b) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld where such an order cannot be given effect to.

Explanation.—In the case of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increment ordered to be withheld may be recovered.

(v) Reduction to a lower rank in the seniority list or to a lower grade or post or lower time-scale or to a lower stage in a time scale.

Note.—(1) The reduction referred to may be either permanent or temporary as the case may be for a specific period.

(2) Temporary period of withholding of increments shall not be less than 3 months and a temporary period of withholding a promotion shall not be less than 6 months and both shall not be for more than 3 years. If the period is not specified in the order, it will be deemed to be three months in the case of temporary withholding of increments and 6 months in the case of temporary withholding of promotions. Temporary withholding of increment shall mean withholding of increments without cumulative effect or it shall not have the effect of postponing future increments.

(3) An order of reduction to a lower post or to a lower time scale shall entail loss of seniority.

(4) An employee so reduced shall take his place in the lower grade or lower time scale at the top of the list of employees in that grade or time scale. He shall be considered for promotion on the completion of the specified period of reduction. On promotion he shall take his place at the bottom of the higher grade or time scale.

(5) The previous service in the higher grade or time scale of an employee who has been reduced to a lower post or lower time scale shall on re-promotion to the higher grade or higher scale, count for increments only subject to the provisions of rule 36 in Part I—Kerala Service Rules.

(vi) Removal from service which shall not be a disqualification for future employment;

(vii) Dismissal from service which shall ordinarily be a disqualification for future employment.

Explanation.—

The following shall not amount to a penalty within the meaning of these rules.

(i) withholding of the increment of an employee for failure to pass a Departmental Examination or consequential to the extension of probation in accordance with the rules or orders governing the service or post or the terms of his appointment.

(ii) Stoppage of increment of an employee at the efficiency bar of the time scale on the ground of his unfitness to cross the bar.

(iii) Non-promotion whether in an officiating or substantive capacity of an employee after consideration of his case to a higher grade or post, or promotion to which he is eligible.

(iv) Reversion to a lower service, category, class, grade or post of an employee officiating in a higher service, category, class, grade or post on the ground that he is considered after trial to be unsuitable for such higher service, category, class, grade of post or on administrative grounds unconnected with his conduct.

(v) Reversion to his previous category, class, grade or post of an employee appointed on probation to another category, class, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or rules or orders governing probation.

(vi) Replacement of the service of an individual whose service had been borrowed from the State Government at the disposal of the Authority which had lent his service.

(vii) Termination of service of an employee appointed on probation during or at the end of the prescribed or extended period of probation in accordance with the terms of the appointment or the Rules and orders governing probation—

(a) of an individual employed under an agreement in accordance with the terms of such agreement; or

(b) of an employee appointed otherwise than on contract to hold a temporary appointment on the expiration of the period of appointment.

17. *Disciplinary authority.*—(i) The authority competent to impose any of the punishments referred to in rule 16 on any employee shall be the Appointing Authority:

Provided that it shall be competent for the Appointing Authority to delegate the powers vested in it under this rule in respect of particular categories or all of the employees, to any officer not below the rank of the Commissioner.

(ii) Notwithstanding anything contained in sub-rule (i) above, the Commissioner shall be competent to impose the punishment of censure, fine, withholding of increment or promotion referred to in items (i), (ii) and (iii) of Rule 16 on any employee working under him.

(iii) Subject to the provisions in rule 20 regarding appeals, the orders of the Disciplinary Authority referred to in sub-Rule (ii) shall be final.

18. *Authority to impose penalty when promoted or transferred.*—Where on promotion or transfer, an employee is holding an appointment in another category or grade, no penalty shall be imposed upon him in respect of his work or conduct before such promotion or transfer except by an authority competent to impose the penalty upon an employee holding the latter category or grade, as the case may be.

19. *Procedure for imposing penalties.*—The procedure laid down in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1961 in the matter of imposing penalty shall *mutatis mutandis* apply to the imposing of penalties on any employee of the common service.

20. *Appeals preferred by employees other than employees of Municipal Corporations*—(i) *Orders not appealable.*—There shall be no appeal against any order passed under the provisions of these rules except as expressly provided herein.

(ii) *Appeals against orders of suspension.*—An employee may appeal against an order of supsension to the Director if the order of suspension was issued by the Commissioner or any authority authorised by the Director and to the Government in other cases.

(iii) *Appeals against orders imposing penalties.*—(a) Every employee shall be entitled to appeal against an order imposing any of the penalties specified in rule 16.

(b) An appeal against any order of the Commissioner or the disciplinary authority under these rules shall lie to the Director, if he is himself not the disciplinary authority and in respect of an order passed by the Director to the Government.

21. *Appeals preferred by employees of Municipal Corporations.*—(i) Notwithstanding anything contained in rule 20 the Mayor shall be the appellate authority in respect of penalties imposed on an employee of a Corporation drawing a salary of Rs. 150 per mensem and below; and

(ii) In respect of penalties imposed on employees of the Corporation drawing a salary exceeding Rs. 150 per mensem the appellate authority shall be the Government as provided for in section 96 of the Kerala Municipal Corporations Act, 1961.

Explanation.—The term "Salary" for the purpose of this rule shall mean the monthly payment made to the employees including all allowances.

22. *Period of Limitation.*—No appeal under these rules shall be entertained unless it is preferred within a period of two months from the date on which the appellant received the copy of the order appealed against:

Provided that the appellate authority may entertain the appeal after the expiry of the period if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

Note.—Appellate authority which receives a copy of an appeal submitted direct shall not take any action on such copy until the period for the receipt of the appeal forwarded through the appropriate channel or a period of one month whichever is earlier is over.

23. *Form and contents of appeal.*—(i) Every person submitting an appeal shall do so separately and in his own name.

(ii) The appeal shall be addressed to the authority to whom the appeal lies, shall contain all material statements and arguments on which the appellant relies shall not contain any disrespectful or improper languages and shall be complete in itself.

24. *Submission of appeals.*—(i) Every appeal shall be submitted to the authority which made the order appealed against:

Provided that if such authority is not the head of Office in which the appellant may be serving or if he is not in service, the head of office in which he was last serving, the appeal shall be submitted to the head of the office in which he was last serving who shall forward it forthwith to the said authority:

Provided further that a copy of the appeal shall be submitted direct to the appellate authority.

25. *Withholding of appeals.*—(1) The authority which made the order appealed against may withhold the appeal if—

(i) it is an appeal against an order from which no appeal lies; or

(ii) it does not comply with any of the provision of rules 23 and 24; or

(iii) it is not submitted within the period specified in rule 22 and no cause is shown for the delay; or

(iv) it is a repetition of an appeal already decided and no new facts or circumstances are adduced; or

(v) it is addressed to an authority to which no appeal lies under these rules:

Provided that an appeal withheld on the only ground that it does not comply with the provision of rules 23 and 24 shall be returned to the appellant and if re-submitted within one month thereof, after compliance with the said provisions shall not be withheld.

(2) When appeal is withheld, the appellant shall be informed of the fact and the reasons therefor.

(3) When the appeal is withheld, the authority withholding the appeal shall forward a copy of the order communicated to the employee to the appellate authority.

26. *Transmission of appeals.*—(i) The authority which made the order appealed against shall, without any avoidable delay; transmit to the appellate authority every appeal which is not withheld under rule 25 together with its comments thereon and the relevant records.

(ii) The authority to which the appeal lies may direct transmission to it of any appeal withheld under rule 25 and thereupon such appeals shall be transmitted to that authority together with the comments of the authority withholding the appeal and the relevant records.

27. *No appeal from an order withholding an appeal.*—No appeal shall lie against the withholding of an appeal by a competent authority.

28. *Consideration of appeals.*—(i) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 15 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(ii) In the case of an appeal against an order imposing any of the penalties specified in rule 16 the appellate authority shall consider—

(a) Whether the facts on which the order was based have been established;

(b) Whether the facts established afford sufficient grounds for taking action;

(c) Whether the procedure prescribed in these rules have been complied with, if not whether such non-compliance has resulted in violation of any of the provisions of the Constitution or in failure of justic;

(d) Whether the findings are justified; and

(e) Whether the penalty imposed is excessive, adequate or inadequate and pass orders—

(i) setting aside, reducing, confirming or enhancing the penalty; or

(ii) remitting the case to the authority which imposed the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case:

Provided that—

(i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;

(ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty; and

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in items (v) to (vii) of rule 16 and an enquiry as laid down under rule 19 has not already been held in the case, the appellate authority shall, itself hold such enquiry or direct that such enquiry be held and thereafter on consideration of the proceedings of such enquiry and after giving the appellant an opportunity of making any representation which he may desire to make against such penalty, pass such orders as it may deem fit.

29. *Implementation of orders on appeal.*—The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

30. *Government's power to review.*—Notwithstanding anything contained in this Chapter the Government may on their own motion or otherwise, after calling for the records of any case, review any order passed by the Mayor, Commissioners or Director as the case may be—

(a) confirm, modify or set aside the order; or

(b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order; or

(c) remit the case to the authority which made the order directing such further action or enquiry as they consider proper in the circumstances of the case; or

(d) pass such other order as they deem fit:

Provided that—

(i) an order enhancing a penalty shall not be passed unless the person concerned has been given an opportunity of making any representation which he may wish to make against such enhanced penalty;

(ii) if the Government propose to impose any of the penalties specified in items (v) to (vii) of rule 16 on a case where an enquiry as laid down under rule 19, not been held, they shall direct that such enquiry be held and thereafter on consideration of the Proceedings of such inquiry and after giving the person concerned such opportunity of making any representation which he may wish to make against such penalty, pass such order as they deem fit.

31. *Review of orders by the Director.*—The Director may, if so authorised by the Government, of his own motion or otherwise call for the records of the case in a disciplinary proceedings in respect of an employee, review any orders passed in such a case by the Commissioner and after consultation with the Commissioner if such consultation is considered necessary, pass such orders as he deems fit, as if the employee had preferred an appeal against such orders:

Provided that no application for review shall be entertained after the expiry of a period of one month from the date of passing the order:

Provided further that no action under this rule shall be initiated more than one year after the date of the order to be reviewed.

Chapter VI

32. *Power of Government to issue directions.*—(1) If any difficulty arises in the implementation of these rules, the Government may, as occasion arises issue such directions as they may deem fit to remove such difficulty.

(2) It shall be competent for the Government to issue such directions as they may consider necessary from time to time, in respect of the common service.

By order of the Governor,

P. K. Abdulla,
Secretary to Government.

Explanatory Note.—

(This note is not part of the rules but is intended to indicate their general purport).

Section 90 (1) of the Kerala Municipal Corporations Act provides that the Government may constitute the employees under the Municipal Councils and Corporations into a Common Municipal Service of the State. The above rules are intended to regulate the constitution of a Common Municipal Service as provided by the above section.

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